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books"), and it is only fair to test it by the standard of such books. So regarded, it seems to be a carefully and conveniently arranged selection of cases, adequately annotated and up-to-date. The arrangement is not greatly different from that usually pursued in courses on the subject. The first 86 pages are devoted to the bases of public-service duties, the next 130 pages to the obligations to render service and the right to make rules for such service. Then follow nearly 200 pages of cases on rates and discrimination. Finally there are nearly 100 pages of cases on the duty to furnish adequate facilities and the right to withdraw from the service. The book also contains the texts of the Act to Regulate Commerce and the Elkins Act. As the working basis for a course on public utilities the book fulfills its purpose well enough.

C. A. McLAIN.

VICARIOUS LIABILITY. By T. Baty. Oxford: Clarendon Press, 1916. pp. 244.

The subtitle describes this book as "a short history of the liability of employers, principals, partners, associations, and trade union members, with a chapter on the laws of Scotland and foreign states." Obviously the bringing together of these diverse but allied topics is well worth while. The book is indeed an interesting one. Its interest is not diminished by its being not written, it would seem, from the merely historical point of view, but rather with a disputatious purpose. The preface frankly indicates the character of the book by saying: "The present-day discussion of the question of the liability of Trade Unions is hampered by the constant and unwarranted implication that liability on the part of principals for the wrongful acts of those who are employed by them is a sort of natural law. . . . The society member's asserted liability is only an illogical inference from that of shareholders; the shareholder's liability is only a variety of the liability of the partner; the partner's liability is only *qua* principal, and began in 1833; the principal's liability is only *qua* master; and the master's liability is based on a tissue of misapprehensions and began in 1692." This polemical flavor persists throughout the book and with honesty puts the reader on his guard for unconscious excesses of emphasis. The author's enthusiasm for making out his case brings results which, though perhaps misleading for beginners, in no way injure a reader of experience. Thus he complains that in *Jones v. Hart*, 2 Salk. 441, 1 Ld. Raym. 738, Holt 642, Holt, C. J., by way of *dictum* "clearly lays down the modern principle, which thus rests on the precarious foundation of an *obiter dictum* in a *nisi prius* case"; and this may sound serious enough to the beginner, who may think that the proper metaphor for law is a building upon a foundation, whereas in truth a more useful metaphor is a stream — a river — not to be spoken of disrespectfully because it began in a small spring. Again, Y. B. Trin. 44 Edw. III 20, pl. 16, is cited by the author as proving that "the taking of unlawful toll at a mill by a servant could not prejudice the master"; whereas the action was brought not against the master but against the servant, and the servant defended himself under the master's right to take toll, and the statement by Thorpe, C. J., that an action would not lie against the master was undoubtedly a *dictum*, whether right or wrong. Still again, *Bush v. Steinman*, 1 B. & P. 404, certainly a grotesque distortion of *respondeat superior*, is discussed without any indication that it was distinctly discredited by *Reedie v. London & Northwestern Railway Co.*, 4 Exch. 244. Finally, it is certainly a misfortune that such an interesting work should have as its basic conception the doctrine that law either should never have grown at all, or at least should have ceased to grow in or before 1692. Yet all these comments, and more, should not tend to conceal the fact that here is a book of great interest

to any one who wishes to find the old familiar cases, and new ones also, discussed in a lively way. Thus no one would wish to miss the searching discussion of a servant's "authority" to commit wrongs (Chapter V), or of the ambiguous expression "scope of employment" (Chapter VII), or of the ethical justifications for *respondeat superior* (Chapter VIII).

EUGENE WAMBAUGH.

YEAR BOOKS OF EDWARD II. Volume XI, 5 Edward II (1311-12). Edited by William Craddock Bolland, being the volume for the year 1915 of the publications of the Selden Society. London: Bernard Quaritch. 1915. pp. xlix, 257.

In this volume Mr. Bolland has a less picturesque subject matter than in his "Eyre of Kent"; the cases are mostly real actions, the learning is obsolete, the facts undramatic. What does it interest us, whether by essoining himself the lord estopped himself from claiming a villain, or whether the King or the Archbishop of Dublin could present to a Deanery, or whether the Abbot of Holland could have his writ of mesne? We cannot get as excited as Beresford, C. J., about a point of pleading on a writ of replevin of cattle. Mr. Bolland himself appears to regard this as a rather uninteresting volume; his introduction is not in his best vein. There is nothing about it to make us forget that our own time will be past before the Selden Society gets through with Edward II; and of Richard II but one year has been printed. (And the reviewer for one is grateful for this publication, maugre its faults; life is evidently too short to wait for perfection, and get so little.) Should not the Selden Society take note of the fact that the noble historic impulse which led to the formation of the society is in danger of death from inanition? Give us more such noble volumes, such fruitful discussions, cases so full of life as those the society gave us in its earlier years, and we may hope for a new birth of historical scholarship in the younger men. Starve us on vapidity, or on dribbles, and we shall all join the social justiciaries.

But there is no need of despair over this volume. Read aright, it is the Epic of Beresford. That lusty conservative fills each page with some expression of his vigorous mind. "At what time," he asks, "was the view granted in a writ of intrusion? In the time of the Antichrist? . . . This is a new writ, and a truly wonderful writ," he observes. "Never will I uphold this writ." An agreement drawn by a soldier is brought before him. "Men-at-arms are clever hands," he allows, "at making a mess of work of this sort." He is alive to his duty as professor of law, teaching the apprentices in the Crib. "One thing I tell you for the learning of the young men that be about us," — and he bettered his promise by telling two things. He could make a pun or a jest barely verging on the delicate; he could illustrate a point by an anecdote of Roger de Heugham and the unjust judges; he could make over a statute to correspond with the unexpressed intention of the legislator.

If all the unpublished Year Books were published we might not be vastly enlightened legally; but we should be wondrous wise as to the life of the English people, and we should know pretty well a number of strong, racy personalities who sat on the bench and molded our law for us. They would be worth knowing.

J. H. BEALE.

RIGHTS AND DUTIES OF NEUTRALS. By Daniel Chauncey Brewer. New York: G. P. Putnam's Sons. 1916. pp. ix, 1-248.

This small volume consists largely of papers prepared for the Army and Navy Journal since the outbreak of the present war. It is not, therefore, to